

IDEQ – EPA Permit Rules Meeting Notes

Tuesday, November 13, 2012

Attendees:

IDEQ: Robert Wilkosz, Sue Richards

EPA: Debra Suzuki, Dave Bray, Donna Deneen, Julie Vergeront, Alexander Fidis, Mike McGown, Kristin Hall, Lucy Edmondson

Idaho DEQ - Discussion of issues/goals from IDEQ perspective

Permit provisions for specific sources that are approved into the SIP are now in the Notebook format for Idaho's SIP, listed in the source-specific provisions table.

There are a number of permits for sources in PM10 areas such as Sandpoint and Northern Ada County, and also some very old permits – 1979 TSP permits – in the table.

When sources want to make changes to their operations, such as throughput limits, it requires a SIP revision which can take a long time – administrative burden.

IDEQ goal is for the permit program to serve as the control measure.

The PM10-related permits in the SIP continue to be an issue for IDEQ and it's important to try to resolve this issue.

Long-term goal is to prevent this issue in any future nonattainment planning/SIP.

Current approach is not fair to certain sources caught up in attainment planning in these areas.

Historic Max Flex permit program led to permit revisions for certain sources, in order to model attainment. Since this program has ended, perhaps the permits in the SIP issue won't be quite as big a problem?

EPA - Discussion of issues/goals from EPA perspective

Driver for EPA is CAA section 107(D)(3)(E) = reductions relied on must be permanent and enforceable

Tier II permit program is enforceable, but not permanent. Expire after 5 years.

Another key element is that there is a public process piece that is necessary. For example, Oregon's permitting program has a specific public review process for permit revisions.

IDEQ is seeking to have the operating permit program as the control strategy. We are only aware of one state where this is the case – Oregon.

Region 5 has a number of states and many nonattainment areas. Region 10 confirmed with Region 5 that the Midwestern states manage nonattainment reductions through rules, permits, and orders. There are no state programs similar to Oregon's in Region 5.

Many states have source permits in the SIP as a result of attainment planning – and have had to go through SIP revisions periodically to update and revise permits.

The Limited Maintenance Plan option memo specifies all reductions relied on for attainment remain in place – controls cannot be rolled back within the context of a Limited Maintenance Plan. A full maintenance plan with demonstration is required if a state wants to roll back controls.

Under 175A(d), any control measure relied on in the attainment plan must be a contingency measure in the maintenance plan.

Potential Options

1. IDEQ submits a demonstration that specific source permits limits aren't needed to demonstrate attainment.

e.g., modeling those sources at PTE would demonstrate attainment.

A different approach would be needed for 1979 TSP permits.

Not viable within a Limited Maintenance Plan, but rather a full maintenance plan.

If there is a situation where a Tier II restriction is now part of a permit to construct as a result of an operation change, it may be possible to submit the permit to construct restriction and the modeling done for that permit as the demonstration.

2. IDEQ substitutes control measures that aren't implemented through permits.

e.g., a reduced grain loading standard for certain sources or source categories in the maintenance area;

e.g., other reductions that have occurred since the plan, such as source shutdowns.

Generally accepted approach.

3. IDEQ revises its Tier II rule so that it is similar to Oregon's PSEL operating permit rule.

Key elements: (from Dave's write up)

Air Contaminant Discharge Permits (ACDPs) are mandatory operating permits and sources cannot operate without a current, valid ACDP (same as sources subject to Title V operating permits).

All sources subject to ACDPs (and Title V operating permits) are also subject to the Plant Site Emission Limit (PSEL) rule and all ACDPs will include annual PSELs for all pollutants and sources in most nonattainment areas will also have a daily PSEL for the nonattainment pollutant(s).

PSELs are established initially at the baseline actual emissions for existing sources and at the permitted emissions for new sources.

PSELs may be increased as a result of new construction or to utilize existing capacity, but only through a permitting process that reviews the impact of the increase.

When a PSEL is increased by more than the significant emission rate over the baseline, then it undergoes a permit review similar to that of a major modification, including the need for offsets in nonattainment areas.

Oregon's ACDP and PSEL rules function together as a control strategy for ensuring attainment and maintenance of the NAAQS and PSD increments and can be relied upon for SIP demonstrations without submitting ACDPs specifically for inclusion in the SIP.

Note that Oregon's rules don't allow for all ACDPs to be relied upon without case-by-case SIP submittal. Oregon's provisions for case-by-case RACT determinations in nonattainment areas still require each ACDP to be submitted to EPA for inclusion in the SIP.

4. IDEQ revises its Tier II rules to allow changes for certain permits relied on in an attainment plan if done through an identified replicable procedure.

e.g. holding all variables the same except for the changes in emissions from the sources in question (e.g., same model, same EI for all other sources).

The rule would also need to require that the permits not expire and that the permits can be modified only if the modeling with the new emission limits shows the revisions would not interfere with attainment, reasonable further process, increments, and any other applicable requirement of the CAA.

5. IDEQ revises its Tier II rules to require, for permits relied on in a nonattainment area, that the permits 1) do not expire; 2) can be modified only if IDEQ finds that the revised permit will not interfere with attainment, reasonable further process, increments, and any other applicable requirement of the CAA.

Revision will continue to ensure attainment and maintenance of the NAAQS, increments, RFP, visibility, and any other applicable requirement of the CAA.

Depends on what IDEQ wants their Tier II program to do. This option would require involvement from EPA HQs and may need to go through the consistency process because Region 10 is not aware of another SIP-approved program for NAA or maintenance areas that is structured this way.

Next Steps

- Robert and Sue will talk with Tiffany and Mike Simon about the various options. Get feedback.
- Kristin will send notes.
- Robert will call Debra to set up a follow-up meeting/call based on feedback from Tiffany and Mike.
- IDEQ will look at the TSP and SO₂ related permits and options.
- EPA will send the previous letters we've sent to IDEQ re: Simplot SO₂ permit.